

3 FAM 8600 Appendix A

OLD 3 FAM 980, DOMESTIC STAFFS

(TL:PER-294; 10-25-1995)

3 FAM 980, DOMESTIC STAFFS

At this time the new material which would be contained in this chapter have not been cleared for issuance. Accordingly the old 3 FAM version, with one section 986 being unassigned, is the current version in force, is issued as Appendix A to this chapter. The most recent issuance of this material was done under TL:PER-73, dated 10-16-87.

3 FAM 981 POLICY

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

It is the policy of State, AID, USIA, Commerce, and Agriculture that U.S. personnel should treat their domestic staffs fairly and provide them employment conditions which conform to local law and custom in the host country. In furtherance of this policy, heads of overseas establishments should jointly develop and issue a statement outlining requirements and criteria for the use of U.S. personnel as employers of domestic staffs.

Domestic servants who work as ORE and other domestic staff for American employees assigned to missions overseas are neither Federal employees nor employees of the American Mission. They are employees of the individual in whose home they work. The lack of direct employee/employer relationship with the Federal government should be clearly understood by all administrative staff members who deal with the ORE employees, both when they enter on duty and periodically during their employment.

3 FAM 982 EMPLOYER RESPONSIBILITY

3 FAM 982.1 Officials Designated to Receive Official Residence Expense (ORE) Funds

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

Principal U.S. Government representatives who are designated to receive ORE funds are individually responsible for providing comparable wages, fringe benefits, terms of employment, and working conditions for domestic staff, in accordance with local law and custom.

ORE-designated representatives may be reimbursed from ORE funds, in accordance with Standardized Regulations (Government Civilians, Foreign Areas), sections 411e and 451a, for those domestics whose salaries are properly reimbursable from ORE funds. Claims for reimbursement of fringe benefits made to or on behalf of official residence staff members are shown on ORE vouchers as a "servants' maintenance" expense.

3 FAM 982.2 Other U.S. Employees

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

All U.S. personnel who employ domestic staffs are individually expected to (a) comply with the statement of requirements and criteria developed by the overseas establishment on domestic staff employment, and (b) deal fairly and reasonably with their employees.

For U.S. employers who do not receive ORE funds, no direct reimbursement of social security taxes paid on behalf of domestic servants is possible, although this tax is one of the factors considered in determining the amount of any post allowance for U.S. employees.

3 FAM 983 RETIREMENT COVERAGE

3 FAM 983.1 Host Government Social Insurance System

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

a. U.S. employees who have domestic staffs normally will provide for retirement coverage of their household employees through participation in a host government social insurance system which includes retirement benefits. This should be done even where a mission does not participate in the local system on behalf of its FSN employees, unless the domestic staff members are not nationals or permanent residents of the host country and are covered under the social security law of another country. The U.S. employee, as the employer, is responsible for arranging for retirement coverage and for making payments of the employer's share of the contribution to the retirement fund, except where it is local practice for the domestic employee to do so. An employee should seek the assistance of the post's administrative officer in making arrangements with the appropriate host government office.

For guidance of U.S. employees, the ranking officers, or their designees, of State, USAID, USIA, Commerce, and Agriculture overseas establishments in a country should develop, jointly, guidelines governing individual employer participation in a local retirement system on behalf of domestic staffs. These guidelines should be included in the post's orientation material for U.S. employees.

b. Where host government laws do not permit an individual employer to cover domestic staff under the local social insurance plan, the mission should investigate the possibility of domestic staff members participating individually on a voluntary basis.

c. The employee's portion of the contribution normally would be deducted from the employee's pay. If it is customary for employees to make their own payments, U.S. employers should assure themselves to the extent practicable that such payments are being made regularly.

3 FAM 983.2 Post Pension Plan

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

a. Under conditions prescribed in section 971.3, a post may provide pension benefits to FSN employees through a private commercial insurer. In a locality where the post has implemented such a plan, U.S. employees who have domestic staffs and receive ORE funds, should investigate with the post the feasibility of covering their employees under the post's plan. The insurer may agree to include such employees under the post's plan by rider to the post's contract. In such an event, the rider should specify clearly that the individual employer of each affected domestic staff employee, not the U.S. Government, is liable for the payment of premiums and assumes all other employer obligations included in the terms of the contract. The rider should state also that premium payments will be sent by the individual U.S. employer directly to the insurer.

b. Before placing domestic staff under a post pension plan, however, the mission should keep in mind that not all situations which make post participation in the local social security system infeasible also make individual participation infeasible. Coverage under post pension plans rather than local social security should be limited to instances in which either no social security system is available or individual participation is not possible.

3 FAM 984 HEALTH PROTECTION

3 FAM 984.1 Employer Responsibility

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

It is the individual responsibility of officers designated to receive ORE funds, and of all other U.S. employees abroad who have domestic staffs, to provide, as an employer, health protection to their household employees in localities where it is the prevailing practice of private individuals to provide such protection to their domestic help.

3 FAM 984.2 Sources of Coverage

3 FAM 984.2-1 Host Government Social Insurance System

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

Guidance provided under section 3 FAM 983.1 is applicable in localities where health protection is an integral part of the host government's social insurance system.

3 FAM 984.2-2 Post Health Insurance Plans

(TL:PER-73; 10-16-87)

(Uniform State/AID/USIA/Commerce/Agriculture)

Some posts have secured group health protection for their FSN employees through a private insurance carrier under the authority of 3 FAM 971.3. Guidance provided in section 3 FAM 983.2 on retirement coverage also applies to post health insurance plans concluded with a private insurance carrier.

3 FAM 985 SEVERANCE PAY

3 FAM 985.1 Officials Designated to Receive ORE Funds

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

Severance pay for official residence staff members may be reimbursed or paid from ORE funds to the extent that such payment is consistent with local custom. Particularly in the absence of any other retirement plan for long-service official residence domestics, severance pay may be a means to provide some financial assistance at retirement time.

Before any reimbursements or payments of severance pay for official residence staffs are made from ORE funds, the post must determine:

a. Whether severance pay for domestics is the practice at embassies of other governments or at foreign business firms where the foreign manager inherits a staff of servants from a predecessor; and, if so,

b. Whether any severance payment made customarily covers a domestic's total service with the embassy or firm, or just service for the person who terminates a domestic's employment; and

c. What other circumstances or conditions of service affect severance pay granted domestics of other embassies or firms; and

d. The customary amount of severance pay given domestics by other embassies or firms.

The amount of severance pay reimbursements or payments normally should not exceed the amount determined to be customary. If it does, it may be questioned as being contrary to law, which could result in the necessity to recover any excess portion as a personal expense erroneously paid from official funds. If the customary severance pay in the country is the same for domestics as for other workers, the embassy's severance pay plan may be a useful guide to appropriate payments.

All reimbursements or payments of severance pay from the official residence allotment are subject to availability of funds at the post.

3 FAM 985.2 Other U.S. Employees

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

Other U.S. employees should refer to the statement of requirements and criteria for domestic staff employment developed in accordance with section 3 FAM 981.

3 FAM 986 Unassigned

3 FAM 987 EMPLOYMENT OF NON-LOCAL CITIZENS

(TL:PER-73; 10-16-87)

(Uniform State/USAID/USIA/Commerce/Agriculture)

While non-local citizens may be hired as domestic servants, in many countries this is a very sensitive issue. Local governments may feel rightly that a local citizen may be qualified and available for such a position and therefore make it difficult, if not impossible, to obtain visas and work permits for a non-local citizen domestic. Well in advance of anticipated arrival at post, employees should consult the administrative office for any restriction, special requirements, and specific procedures for obtaining a host government visa for the non-local citizen servant.

3 FAM 988 and 989 Unassigned